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**HOUSE BILL 324**

**44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999**

**INTRODUCED BY**

**Larry A. Larranaga**

**AN ACT**

**RELATING TO HEALTH; PROHIBITING CERTAIN ABORTION PROCEDURES;  
PROVIDING CIVIL REMEDIES AND CRIMINAL PENALTIES.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

**Section 1. SHORT TITLE.--This act may be cited as the  
"Partial-Birth Abortion Ban Act".**

**Section 2. DEFINITIONS.--As used in the Partial-Birth  
Abortion Ban Act:**

**A. "abortion" means the intentional termination of  
the pregnancy of a female by a person who knows the female is  
pregnant;**

**B. "fetus" means the biological offspring of human  
parents;**

**C. "partial-birth abortion" means an abortion in  
which the person performing it intentionally partially**

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1 delivers into the vagina a living fetus, or a substantial  
2 portion of a living fetus, and then with the specific  
3 intention of killing the fetus performs a procedure that kills  
4 the fetus; and

5 D. "physician" means a person licensed to practice  
6 in the state as a licensed physician pursuant to the Medical  
7 Practice Act or an osteopathic physician licensed pursuant to  
8 Chapter 61, Article 10 NMSA 1978.

9 Section 3. PROHIBITION OF PARTIAL-BIRTH ABORTIONS. -- No  
10 person shall perform a partial-birth abortion except a  
11 physician who has determined that in his opinion the partial-  
12 birth abortion is necessary to save the life of a pregnant  
13 female:

14 A. because her life is endangered by a physical  
15 disorder, illness or injury, including a condition caused by  
16 or arising from the pregnancy; and

17 B. no other medical procedure would suffice for  
18 the purpose of saving her life.

19 Section 4. CIVIL REMEDIES. --

20 A. Except as provided in Subsection B of this  
21 section, the following persons may bring a civil action to  
22 obtain relief pursuant to this section against a person who  
23 has violated the provisions of Section 3 of the Partial-Birth  
24 Abortion Ban Act:

25 (1) the person on whom a partial-birth

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1 abortion was performed;

2 (2) the biological father of the fetus that  
3 was the subject of the partial-birth abortion; and

4 (3) the parents of the person on whom the  
5 partial-birth abortion was performed if that person had not  
6 reached the age of majority at the time of the abortion.

7 B. The persons named as having a right of action  
8 in Subsection A of this section are barred from bringing a  
9 civil action pursuant to this section if:

10 (1) the pregnancy of the person on whom the  
11 partial-birth abortion was performed resulted from criminal  
12 conduct of the person seeking to bring the action; or

13 (2) the partial-birth abortion was consented  
14 to by the person seeking to bring the action.

15 C. A person authorized to bring a civil action  
16 pursuant to this section may recover:

17 (1) compensatory damages for loss caused by  
18 violation of Section 3 of the Partial-Birth Abortion Ban Act;  
19 and

20 (2) additional statutory damages equal to  
21 three times the cost of the partial-birth abortion.

22 Section 5. CRIMINAL PENALTY--EXCEPTION. --

23 A. Except as provided in Subsection B of this  
24 section, a person who violates Section 3 of the Partial-Birth  
25 Abortion Ban Act is guilty of a fourth degree felony and shall

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1 be sentenced pursuant to Section 31-18-15 NMSA 1978.

2 B. A woman upon whom a partial-birth abortion has  
3 been performed may not be prosecuted for a violation of the  
4 Partial-Birth Abortion Ban Act or conspiracy to violate that  
5 act.

6 Section 6. SEVERABILITY--SECTION 3 NOT SEVERABLE. --

7 A. Except for Section 3 of the Partial-Birth  
8 Abortion Ban Act, if any part or application of that act is  
9 held invalid, the remainder or its application to other  
10 situations or persons shall not be affected.

11 B. If any part or application of Section 3 of the  
12 Partial-Birth Abortion Ban Act is held invalid, the remainder  
13 of that act or its application to other situations or persons  
14 shall be likewise invalid. Section 3 of that act is not  
15 severable.

1 FORTY-FOURTH LEGISLATURE  
2 FIRST SESSION, 1999  
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6 February 18, 1999  
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8 Mr. Speaker:  
9

10 Your CONSUMER AND PUBLIC AFFAIRS COMMITTEE, to  
11 whom has been referred  
12

13 HOUSE BILL 324  
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15 has had it under consideration and reports same with  
16 recommendation that it DO PASS, and thence referred to the  
17 JUDICIARY COMMITTEE.

18 Respectfully submitted,  
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22 \_\_\_\_\_  
23 Patsy Trujillo Knauer,  
24 Chairwoman  
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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

HCPAC/HB 324

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 4 For 2 Against

Yes: 4

No: Beam, Knauer

Excused: King

Absent: None

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